

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO.: 5:07-CT-3034-FL

S. SHANE SMITH,

Plaintiff,

v.

THEODIS BECK, *et al.*,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

**MEMORANDUM &
RECOMMENDATION**

This cause is before the Court upon Plaintiff's motion for an order to enforce the settlement agreement in this case. (DE's-64, 65, 68).

Plaintiff is represented by North Carolina Prisoner Legal Services, Inc. (DE-4). A settlement conference was conducted in this matter on January 19, 2011. (DE-57). At the conclusion of that conference, the parties settled all matters in controversy. (DE-58). A joint voluntary stipulation of dismissal was filed by the parties on March 21, 2011. (DE-62). Therefore, this Court entered an order dismissing the case with prejudice. (DE-63).

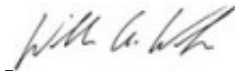
On October 14, 2011, Plaintiff asserted that the terms of the settlement agreement were being "either ignored or denied." (DE-65, pg. 1). Accordingly, Plaintiff filed a *pro se* motion requesting that this Court enforce the settlement agreement. *Id.*

A status conference was conducted on August 20, 2012. (DE's 77-78). At that hearing, the parties agreed that the settlement agreement did not provide for this Court to have a role in its enforcement. (Tr. 4-5, 7-8). Moreover, Counsel for Plaintiff specifically stated that "we believe that . . . [Defendants are] in full compliance with the settlement agreement . . ." *Id.* at 6-7. *See*

also, (DE-72). Regardless, even if Defendants had breached the settlement agreement, the parties believe that “the remedy for that would be a . . . state contract action.” (Tr. 5). *See also*, (Tr. 9).

For these reasons, it is recommended that any relief sought by Plaintiff be DENIED. It is further recommended that any filing by Plaintiff after the dismissal of this case be STRICKEN from the record. Finally, it is recommended that Plaintiff be admonished that any similar filings will be summarily denied and stricken.

SO RECOMMENDED in Chambers at Raleigh, North Carolina on Tuesday, August 21, 2012.

A handwritten signature in dark ink, appearing to read 'William A. Webb', is positioned above a horizontal line.

WILLIAM A. WEBB
UNITED STATES MAGISTRATE JUDGE